

Book	Policy Manual
Section	POLICIES FOR THE BOARD, AUGUST 2022
Title	Copy of NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
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### 3122 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

The School Board does not discriminate on the basis of ~~the Protected Classes of~~ race, color, national origin, sex (including ~~transgender~~ gender status, sexual orientation and gender identity), disability, age, religion, military status, ancestry, ~~or~~ genetic information, ~~or any other legally protected category which are classes protected by Federal and/or State law~~ (collectively, "Protected Classes") ~~in its occurring in the Corporation's employment opportunities,~~ programs, and ~~/or~~ activities, ~~or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment.~~ including employment opportunities.

Notice of the Board's policy on nondiscrimination and the identity of the School Corporation's Compliance Officer (see below) will be published on the Corporation's website, posted throughout the Corporation, and included in the Corporation's recruitment statements or general information publications.

~~The Superintendent shall appoint and publicize the name of the compliance officer(s) who is/are responsible for coordinating the Corporation's efforts to comply with applicable Federal and State laws and regulations, including the Corporation's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The compliance officer(s) also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act is provided to staff members and the general public. Any sections of the Corporation's collectively bargained contracts dealing with hiring, promotion, and tenure should contain a statement of nondiscrimination similar to that in the Board's statement above. In addition, any gender specific terms should be eliminated from such contracts.~~

#### Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges or is alleged to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who is alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Complainant files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

Corporation community means students, Corporation employees (i.e., administrators, and professional and support staff), and Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include but are not limited to guests and/or visitors on Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the Board, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Corporation office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

**Military status:** refers to a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis, in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Indiana organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

#### **Corporation Compliance Officer(s)**

~~The following person(s) is/are designated as the Corporation's compliance officer(s) and, as such, shall handle inquiries regarding the nondiscrimination policies of the Corporation and address any complaint of discrimination:~~

**The Board designates the following individual to serve as the Corporation's "Compliance Officer" (also known as "Civil Rights Coordinator" (hereinafter referred to as the "CO").**

Tim Armstrong  
Assistant Superintendent  
~~1029-W-605-S~~ **3321 W 800 S**  
Fort Branch, IN 47648  
812-753-4230  
tim.armstrong@gibson.k12.in.us

**The names, titles, and contact information of these individuals will be published annually on the Corporation's website and on each individual school's website.**

**The CO is responsible for coordinating the Corporation's efforts to comply with applicable Federal and State laws and regulations, including the Corporation's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The COs also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. Any sections of the Corporation's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure need to contain a statement of nondiscrimination similar to that in the Board's statement above. In addition, any gender-specific terms should be eliminated from such contracts.**

#### **Reports and Complaints of Unlawful Discrimination and Retaliation**

Employees are ~~encouraged~~ **encouraged** to ~~promptly~~ **promptly** report incidents of unlawful discrimination and/or retaliation ~~occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment~~ to an administrator, supervisor, or other Corporation-level official so that the Board may address the conduct. Any administrator, supervisor, or other Corporation-level official who receives such a **complaint report** shall ~~file it with a compliance officer~~ **provide it to the CO** within five (5) business days.

**Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.**

**CO is required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon his/her gender status, sexual orientation, and gender identity.**

**Any questions concerning whether alleged conduct might violate this prohibition should be brought to the CO's attention promptly.**

Employees who believe they have been unlawfully discriminated/retaliated against ~~in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment~~ are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, ~~in the Corporation and/or a concurrent criminal complaint~~ will not adversely affect the **complaining individual's Complainant's** employment **status or opportunity**. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The **compliance officer CO** will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. ~~The compliance officer CO~~ shall accept **complaints reports** of unlawful discrimination/retaliation

directly from any member of the Corporation community or a ~~visitor to the Corporation, Third Party~~ and ~~receive complaints such reports~~ that ~~are~~ initially ~~filed with a school building~~ are made to an administrator, supervisor, or other Corporation-level official. Upon receipt of a ~~complaint, either directly or through a school building administrator, supervisor or other Corporation-level official, a compliance officer will begin report of alleged discrimination/retaliation, the CO will contact the Complainant and initiate~~ either an informal or formal complaint process (depending on the Complainant's request ~~of the person alleging the discrimination/retaliation or~~ and the nature of the alleged discrimination/retaliation); or designate a specific individual to conduct such a process.

The ~~compliance officer~~ CO will provide a copy of this policy ~~to any person who files a complaint~~ the Complainant and the Respondent. In the case of a formal complaint, the ~~compliance officer~~ CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the Corporation community must report incidents of discrimination/retaliation that are reported to them to the ~~compliance officer~~ CO within five (5) business days of learning of the incident/conduct.

Any Corporation employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to ~~one of the~~ compliance officers CO within ~~two (2)~~ five (5) business days. Additionally, any Corporation employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct; unless circumstances make such an intervention dangerous, in which case the ~~staff member employee~~ should notify immediately ~~notify~~ other Corporation employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the ~~compliance officer~~ CO or designee must contact the employee Complainant within two (2) business days to advise ~~him/her~~ the Complainant of the ~~Corporation's Board's~~ intent to investigate the alleged wrongdoing.

### Investigation Complaint Procedures (See Form 3122 F2)

Any Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who ~~believes that s/he has alleges to have~~ been subjected to unlawful discrimination or retaliation may seek resolution of ~~his/her the~~ complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated ~~at the lowest possible administrative level and in a prompt and equitable manner~~.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals ~~should make every effort~~ are encouraged to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights ("OCR"), the Indiana Civil Rights Commission ("ICRC") or the Equal Employment Opportunity Commission ("EEOC").

~~In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Federal and/or State law pertaining to discrimination in employment.~~

~~In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Equal Employment Opportunity Commission, or the Indiana Civil Rights Commission, as well as a concurrent criminal complaint with the law enforcement agency having jurisdiction in the Corporation.~~

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop ~~quickly~~ inappropriate behavior promptly and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee ~~or unsuccessful applicant for employment who believes s/he has been unlawfully discriminated or retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment who alleges unlawful discrimination or retaliation~~. This informal procedure is not required as a precursor to the filing of a formal complaint ~~or a concurrent criminal complaint~~. The informal process is available only when the Complainant and the Respondent mutually agree to participate in it.

~~The informal process is available only in those circumstances where the parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination) agree to participate in it. Employees, or unsuccessful applicants for employment, who believe that they have been unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment~~ The Complainant may proceed immediately to the formal complaint process

and individuals who ~~seek resolution through~~ participate in the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a Corporation employee or any other adult member of the Corporation community ~~against and~~ a student will be ~~formally~~ investigated formally, and a concurrent criminal complaint shall be filed.

As an initial course of action, if ~~an individual feels that s/he is being unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and s/he is able and~~ a Complainant feels comfortable and safe doing so, the individual Complainant should tell or otherwise inform the ~~person who engaged in~~ Respondent that the allegedly discriminatory/retaliatory conduct ~~that it~~ is inappropriate and must stop. The ~~complaining individual~~ Complainant should address the alleged misconduct as soon after it occurs as possible. ~~A/~~The compliance officer is CO is available to support and counsel ~~individuals~~ the Complainant when taking this initial step or to intervene on behalf of the individual if requested to do so. A Complainant who is uncomfortable or unwilling to approach the Respondent directly about the inappropriate conduct may file an informal or a formal complaint.

~~An individual who is uncomfortable or unwilling to inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint and filing a concurrent criminal complaint if s/he desires to do so.~~

In addition, with regard to certain types of unlawful discrimination, ~~such as (e.g., sex sexual~~ discrimination), the compliance officer CO may advise against the use of the informal complaint process.

~~An individual who believes s/he has been unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment~~ A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing: 1) to a building administrator; 2) directly to the compliance officer(s) CO; ~~and/~~ or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to the compliance officer(s) CO who ~~will~~ either will facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide ~~employees who believe they are being unlawfully discriminated/retaliated against~~ the Complainant with a range of options aimed at bringing about a prompt resolution of ~~their~~ the Complainant's concerns. Depending upon the nature of the complaint and the wishes of the ~~individual claiming unlawful discrimination/retaliation~~ Complainant, informal resolution may involve; but is not ~~be~~ limited to; one or more of the following:

- A. Advising the ~~individual~~ Complainant about how to communicate ~~his/her~~ concerns to the ~~person who allegedly engaged in the discriminatory/ retaliatory behavior;~~ Respondent.
- B. Distributing a copy of Policy 3122 Nondiscrimination and Equal Employment Opportunity as a reminder to the individuals in the school building or office where the ~~individual whose behavior is being questioned~~ Respondent works /attends school.
- C. If both parties agree, the compliance officer CO may arrange and facilitate a meeting or mediation between the ~~individual claiming discrimination/ retaliation~~ Complainant and the ~~individual accused of engaging in the misconduct~~ Respondent to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the compliance officer CO or designee ~~will exercise his/her authority~~ is directed to attempt to resolve all informal complaints within thirty (30) business days of receiving the informal complaint.

~~Parties who are~~ If the Complainant is dissatisfied with the ~~results of the~~ informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, ~~parties~~ either party may request that the informal process be terminated at any time to move to the formal complaint process.

~~The compliance officer will retain all materials that are generated as part of the informal complaint process in accordance with the Board's records retention policy. (See Policy 8310)~~

## Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, ~~if~~ one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, ~~or if the individual~~ the Complainant elects to file a formal



complaint **initially from the outset, or the CO determines the allegations are not appropriate for resolution through the informal process, this the** formal complaint process shall be implemented.

**A Complainant may file a formal complaint, either orally or in writing, with a Principal, the CO, the Superintendent, or other Corporation official. An individual who believes that s/he has been subjected to unlawful discrimination/retaliation in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off-Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment (hereinafter referred to as the "Complainant"), may file a formal complaint, either orally or in writing, with an administrator, the compliance officer(s), Superintendent, or other Corporation-level official, as well as file a concurrent criminal complaint with the law enforcement agency having jurisdiction.**

Due to the sensitivity surrounding complaints of unlawful discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a **formal** complaint within thirty (30) calendar days after the conduct occurs. **If a Complainant informs a Principal, the Superintendent, or other Corporation official, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within five (5) business days.**

**If a Complainant informs an administrator, supervisor, Superintendent, or other Corporation-level official, either orally or in writing, about any complaint of discrimination/retaliation, the employee who is informed of the complaint must report such information to the compliance officer within five (5) business days.**

Throughout the course of the process, the **compliance officer CO** should keep the parties **reasonably** informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent **it is available known**: the identity of the **individual believed to have engaged in, or be engaging in, the discriminatory/retaliatory conduct Respondent**; a detailed description of the facts upon which the complaint is based **(i.e., when, where, and what occurred)**; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the **compliance officer CO** shall ask for such details in an oral interview. Thereafter, the **compliance officer CO** will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported **complaint charge** by signing the document.

Upon receiving a formal complaint, the **compliance officer CO** will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the **person who allegedly engaged in the misconduct Respondent**. In making such a determination, the **compliance officer CO** should consult the Complainant to assess **his/her agreement to whether the individual agrees with** the proposed action. If the Complainant is unwilling to consent to the proposed change, the **compliance officer CO still** may **still** take whatever **actions s/he deems actions are deemed** appropriate in consultation with the Superintendent.

Within five (5) business days of receiving the **formal** complaint, the **compliance officer CO**, or a designee, will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the **compliance officer, or a designee, CO** will inform the **individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent")**, that a **formal** complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines, including Policy 3122 - Nondiscrimination **and Equal Employment Opportunity**. The Respondent also must be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the **compliance officer, CO** or a designee, will attempt to complete an investigation into the allegations of discrimination/retaliation within thirty (30) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations; and,
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the ~~compliance officer, CO~~ or the designee, shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful harassment/retaliation of the Complainant ~~has been subjected to unlawful discrimination/retaliation~~. The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used ~~(i.e., it is more likely than not that unlawful discrimination/retaliation occurred)~~.

The ~~compliance officer, or the designee, should~~ CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the ~~compliance officer CO~~ or the designee, the Superintendent ~~must~~ either must issue a written decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final written decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must ~~delineate~~ specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

If the Superintendent determines the ~~Complainant was subjected to~~ Respondent engaged in unlawful discrimination/retaliation toward the Complainant, s/he the Superintendent must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written request statement to the Board within five (5) business days of ~~his/her~~ the party's receipt of the Superintendent's decision. The written statement of appeal must be submitted to the Board Attorney.

~~If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the compliance officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation.~~

~~The~~ In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of ~~a written request to~~ such an appeal. ~~At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position.~~ A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the ~~employee or unsuccessful applicant for employment alleging the unlawful discrimination/retaliation~~ Complainant pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The ~~Complainant and the Respondent~~ parties may be represented, at ~~his/her~~ their own cost, at any of the above-described interviews/meetings/~~hearings~~.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the ~~Office for Civil Rights, Equal Employment Opportunity Commission, Indiana Civil Rights Commission OCR, EEOC or ICRC, the filing of charges with local law enforcement,~~ or the filing of a ~~concurrent criminal complaint~~ civil action in court. Use of ~~the this internal~~ complaint procedures process is not a prerequisite to the pursuit of other remedies. ~~Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.~~

### Privacy/Confidentiality

The Corporation will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses ~~to the extent as much as~~ possible, consistent with the Corporation's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).~~

During the course of a formal investigation, the ~~compliance officer~~ **CO** or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that ~~s/he learns and/~~ is learned or ~~provides provided~~ during the course of the investigation.

### Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the discrimination or other appropriate action.

The Board may appoint an individual, who may be a Corporation employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any reported occurrences promptly.

### ~~Remedial Action,~~ Sanctions and Monitoring Disciplinary Action

The Board shall vigorously enforce its prohibitions against unlawful discrimination ~~/retaliation occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment~~ by taking appropriate action reasonably calculated to stop and prevent further misconduct.

~~If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.~~

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of ~~the any~~ relevant collective bargaining ~~agreement(s), if any agreement or student code of conduct~~.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of ~~the any~~ relevant collective bargaining ~~agreement(s), if any agreement or student code of conduct~~.

All Where the Board becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect. ~~Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.~~

~~The Board may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Board may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.~~

### Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws or this policy, or exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

### Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate information to all members of the Corporation community related to the implementation of this policy and shall provide training for Corporation students and staff where appropriate. All training and information provided regarding the Board's policy and discrimination in general will be age and content appropriate.

### Retention of ~~Public Records, Student Records, and~~ Investigatory Records and Materials

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all ~~information,~~ documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and ~~/or~~ received as part of an investigation, ~~including which may include~~ but ~~are~~ not limited to: ~~complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records);~~

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statement/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by Corporation personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the Corporation's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, and audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, and social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes and summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive measures offered and/or provided to the Complainant or the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and procedures/guidelines used by the Corporation to conduct the investigation and any documents used by the Corporation at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State (e.g., I.C. 5-14-3-4) law,



## such as student records and confidential medical records.

The ~~information~~, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 ~~and for not less than three (3) years,~~ and longer if required by the Corporation's records retention schedule.

### **Retaliation**

~~Retaliation against a person who 1) makes a report or files a complaint alleging unlawful discrimination occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment, or 2) participates as a witness in an investigation, is prohibited.~~

~~Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because s/he opposed any act or practice made unlawful by Federal or State nondiscrimination laws, made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

~~Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.~~

### **Training**

~~The compliance officers also will oversee the training of Corporation employees so that all employees understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.~~

### **Notice**

~~Notice of the Board's policy on nondiscrimination in employment practices and the identity of the compliance officers will be posted throughout the Corporation and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.~~

Revised 2/26/07  
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Revised 4/16/13  
Revised 3/15/16

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Legal	I.C. 20-28-10-12
	I.C. 20-28-10-13
	I.C. 20-33-1-1
	I.C. 20-33-1-6
	20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)
	20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972
	29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
	29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended
	29 U.S.C. 6101, The Age Discrimination in Employment Act of 1975
	42 U.S.C. 1983
	42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964
	42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964
	42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act of 2008
	42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended
	29 C.F.R. Part 1635